

FILED

NOVEMBER 7, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

07 C 6319

LIONEL FRANKLIN,

COMPLAINT

Plaintiff,

v.

ACADEMY COLLECTION SERVICE, INC.

Defendant.

JUDGE PALLMEYER
MAGISTRATE JUDGE VALDEZ
Civil Action No.

JURY TRIAL DEMANDED
J. N.

COMPLAINT

I. INTRODUCTION

1. This action is brought by Plaintiff Lionel Franklin for statutory damages against Defendant Academy Collection Service, Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331. Venue is proper in this district as all relevant events took place here.

III. PARTIES

3. Plaintiff Lionel Franklin is an individual who resides in Calumet City, Illinois.

4. Mr. Franklin is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).

5. Defendant Academy Collection Service, Inc. (hereinafter referred to as "Academy") is a corporation organized under the laws of the State of Pennsylvania with its main

office located at 10965 Decatur Road, Philadelphia, Pennsylvania.

6. Academy is engaged in the collection of debts from Illinois consumers using the mail and telephone.

7. Academy regularly attempts to collect consumer debts alleged to be due to another.

8. Academy was and is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

9. Mr. Franklin incurred an alleged debt to Citibank ("the Debt") for personal purchases made on a credit card.

10. The Debt was incurred for personal, family, or household purposes, *i.e.*, personal purchases with a credit card.

11. At some point after default, Academy obtained the Debt.

12. On July 26, 2007, at 4:26pm, Mr. Franklin received a voicemail from telephone number 215.320.0424 on his cellular telephone. The voicemail stated, "Yes this phone number was given to us by Lionel Franklin, as a good telephone number to get in touch with him on, Lionel this is Steve Ahmann calling, today is uh...what...Thursday the 26th of July, Mr. Franklin I need to speak with you so call me at 800-220-0605, my extension is 2872. On uh, Thursday if you can reach me up until 5pm Pacific time. Once again that phone number is 800-220-0605. I do need to speak with you personally, so when you call in dial my direct extension which is 2872."

13. If a consumer's attorney calls Academy regarding an alleged debt, Academy will

Speak with the consumer's attorney.

14. Mr. Franklin could have spoken with someone other than Mr. Ahmann regarding the Debt.

15. On or about July 27, 2007, Academy arranged for the preparation and transmittal of a letter to Mr. Franklin at his residence in an attempt to collect the Debt. Academy's July 27, 2007, letter is attached hereto as Exhibit A.

16. Exhibit A provides the toll-free telephone number of Academy as 1 (800) 220-0605.

17. Exhibit A contains as a closing, "Yours truly, **Steve Ahmann, Debt Collector Ext 2872**" (emphasis in original).

18. Exhibit A was the initial communication from Academy to Mr. Franklin.

19. On July 30, 2007, at 2:39pm, Mr. Franklin received a voicemail from telephone number 215.320.0424 on his cellular telephone. The voicemail stated, "Lionel Franklin this is Neal Douglas call me back at 1-800-220-0605 x5680."

20. The telephone message left by Academy on July 26, 2007, was a communication made in an attempt to collect a debt.

21. The telephone message left by Academy on July 30, 2007, was a communication made in an attempt to collect a debt.

22. The telephone number 215.320.0424 is answered by Academy.

23. The telephone message left by Academy on July 26, 2007, did not meaningfully disclosed Academy as the identity of the caller.

24. The telephone message left by Academy on July 30, 2007, did not meaningfully

disclosed Academy as the identity of the caller.

25. The telephone message left by Academy on July 26, 2007, did not disclose that the communication was from a debt collector.

26. The telephone message left by Academy on July 30, 2007, did not disclose that the communication was from a debt collector.

V. COUNT ONE – FAIR DEBT COLLECTION PRACTICES ACT

27. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

28. Defendant's violations of the FDCPA include, but are not limited to:

- A. engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt in violation of 15 U.S.C. § 1692d;
- B. placing telephone calls without meaningful disclosure of the caller's identify in violation of 15 U.S.C. § 1692d(6);
- D. using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer in violation of 15 U.S.C. §§ 1692e and e(10);
- E. failing to disclose in communications subsequent to the initial communication with the consumer that the communication is from a debt collector in violation of 15 U.S.C. § 1692e(11); and

29. As a result of Academy's violations of the FDCPA, Plaintiff is entitled to an award of statutory damages, costs and reasonable attorney fees.

VI. REQUEST FOR RELIEF

WHEREFORE, Plaintiff Lionel Franklin requests that judgment be entered in his favor against Defendant Academy Collection Service, Inc. for:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2);
- B. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k(a)(3);
and
- C. For such other relief as the Court may find to be just and proper.

VII. JURY DEMAND

Plaintiff Lionel Franklin hereby demands that this case be tried before a Jury.

s/ Craig M. Shapiro
Craig M. Shapiro
O. Randolph Bragg
HORWITZ, HORWITZ & ASSOCIATES, LTD..
25 East Washington Street Suite 900
Chicago, Illinois 60602
(312) 372-8822
(312) 372-1673 (Facsimile)

ATTORNEYS FOR PLAINTIFF LIONEL FRANKLIN

EXHIBIT A

We are required under State Law to notify consumers of the following rights. This list does not include a complete list of rights consumers have under State and Federal Laws.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

ADDITIONAL INFORMATION FOR CALIFORNIA RESIDENTS

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8am or after 9pm. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or your spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

ADDITIONAL INFORMATION FOR MASSACHUSETTS RESIDENTS

NOTICE OF IMPORTANT RIGHTS:

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN (10) DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN (7) DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

Local address: 30 Domino Drive, Suite E, Concord, Massachusetts 01742
1-800-220-0605 Mon-Thurs 8am-9pm, Fri 8am-5pm & Sat 8am-12 Noon, Eastern Time

ADDITIONAL INFORMATION FOR COLORADO RESIDENTS

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM

ADDITIONAL INFORMATION FOR MINNESOTA RESIDENTS

This Collection Agency is licensed by the Minnesota Department of Commerce.

ADDITIONAL INFORMATION FOR NORTH CAROLINA RESIDENTS

North Carolina Permit #3205.

ADDITIONAL INFORMATION FOR NEW YORK CITY RESIDENTS

New York City Department of Consumer Affairs License #0961716.

ADDITIONAL INFORMATION FOR TENNESSEE RESIDENTS

This Collection Agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

ADDITIONAL INFORMATION FOR WISCONSIN RESIDENTS

This Collection Agency is licensed by the Division of Banking P.O. Box 7876, Madison, Wisconsin 53707.

ADDITIONAL INFORMATION REGARDING SETTLEMENTS

If after settlement, the discharge of indebtedness is greater than \$599.99, our client may be required by Federal Law (IRS 6050P) to report this amount and send you a form 1099-C.